

REMARKS

1. In response to the Office Action mailed May 3, 2005, Applicants respectfully request reconsideration. Claims 25-62 were last presented for examination. In the outstanding Office Action, claims 25-28, 30-32, 34-39, 41-48, 51-58 and 60-62 were rejected and claims 29, 33, 40, 49, 50 and 59 were objected to. By the foregoing Amendments, claims 27, 30-42, 46-48, 52, 57-58 and 61 have been amended. Claim 50 has been cancelled and no claims have been added. Thus, upon entry of this paper, claims 25-49 and 51-62 will be pending in this application. Of these thirty-seven (37) claims, three (3) claims (claims 25, 42 and 56) are independent. Based on the above Amendments and following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered, and that they be withdrawn.

Art of Record

2. Applicants acknowledge receipt of form PTO-892 identifying additional references made of record by the Examiner.

Allowable Subject Matter

3. Applicants note with appreciation the Examiner's indication that claims 29, 33, 40, 49, 50 and 59 recite allowable subject matter.

Claim Objections

4. Claim 50 has been objected to under 37 CFR 1.75 as being a substantial duplicate of claim 49. Applicants have cancelled claim 50 thereby rendering the objection moot. Applicants respectfully request that this objection be withdrawn.

Claim Rejections

5. Independent claim 42 and dependent claims 27, 31, 34-39, 42, 43-55, 57, 58 and 61 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants have amended the claims to correct these informalities, and as such, respectfully request that these rejections be reconsidered and withdrawn. These amendments have not been made in response to any prior art rejection nor have they been made to distinguish the present invention over any prior art.

Double Patenting Rejections

6. The Examiner has rejected claims 25-28, 30-32, 35, 37, 38, 41-47, 51, 52, 55-58 and 60-62 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,717,485.

7. Applicants have filed concurrently with this paper a terminal disclaimer disclaiming the terminal part of the statutory term of any patent granted on the captioned application, which would extend beyond the expiration date of the full statutory term of United States Patent No. 6,717,485. Applicants respectfully assert that these rejections have been obviated by the filing of the terminal disclaimer.

8. Applicants have submitted the terminal disclaimer solely to advance the prosecution of the application, without conceding that the double patenting rejection is properly based. In filing the terminal disclaimer, Applicants rely upon the rulings of the Federal Circuit that the filing of such a terminal disclaimer does not act as an admission, acquiescence or estoppel on the merits of the obviousness issue. See, e.g., Quad Environmental Tech v. Union Sanitary Dist., 946 F.2d 870, 874-875 (Fed. Cir. 1991); Ortho Pharmaceutical Corp. v. Smith, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

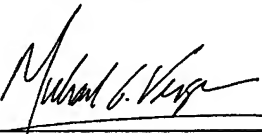
Dependent Claims

9. The dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter which makes them a fortiori and independently patentable over the art of record. Accordingly, Applicants respectfully request that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

Conclusion

10. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

Respectfully submitted,



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